IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.206 OF 2006
IN
APPEAL FROM ORDER NO.1092 OF 2005

Chandrakant P.Sawant & Ors. ..Applicants.

V/s.

Parivar Safalya Co-op. Housing
Society(Proposed) & Ors. ..Respondents.

Mr.V.Z.Kankaria for A.R.Shaikh for applicants.

Mr.Nikesh Kabani for respondent No.1.

Mr.J.Reis with Mr.Choudhari for respondent No.2.

Mrs.Geeta Joglekar for BMC.

CORAM: A.M.KHANWILKAR,J

DATE : FEBRUARY 28, 2006.

P.C. :

1. The substance of the grievance in this application is that the respondents are thrusting upon occupants agreement which is prejudicial to the interest of the applicants and similarly placed persons. Suffice it to observe that the main proceedings which were brought before this court have been finally disposed of on 5th December, 2005, being Appeal From Order No.105 of 2005. If the grievance of the applicant is about inappropriate clause in agreement in question, that may be canvassed before appropriate forum as may be advised. It is not open for this court to entertain the grievance having

become functus officio. Accordingly, this application is disposed of with liberty to take recourse to such remedy, as may be advised in accordance with the law.

2. Counsel for the respondent No.1 points out that the applicants are in the first place obliged to give consent as has been given by the similarly placed person. The question of execution of scheme will arise only after such unconditional consent is given in prescribed format. The applicants may be well advised to furnish such unconditional consent as per the assurance given before this court recorded in the order dated 5th December, 2005 as referred to in paragraph-2.

3. Ordered accordingly.